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Note verbale dated 6 November 2006 from the Permanent Mission of Antigua and Barbuda to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Antigua and Barbuda to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to transmit herewith the national report of the Government of Antigua and Barbuda (see annex).

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Annex to the note verbale dated 6 November 2006 from the Permanent Mission of Antigua and Barbuda to the United Nations addressed to the Chairman of the Committee

Report of the Government of Antigua and Barbuda pursuant to Security Council resolution 1540 (2004)

The Government of Antigua and Barbuda does not possess and has no intention of possessing Weapons of Mass Destruction (WMDs).

The Government of Antigua and Barbuda has never, either on a national or international level, supported, promoted or encouraged the proliferation of nuclear, chemical or biological weapons and stands firmly committed to all the efforts of the international community on the issues of disarmament and non-proliferation of WMDs.

Antigua and Barbuda's ports of entry are compliant with international requirements as prescribed by the International Civil Aviation Organization (ICAO), including the implementation of machine readable passports and the reliance upon modern bio-data software to maintain a watch list of known terrorists as provided by Interpol. The watch list also contains the names of deportees from several countries. Additionally, Customs controls include restrictions on the importation of arms and ammunition and require the same to be authorized by the Commissioner of Police.

Antigua and Barbuda has ratified a number of international conventions against terrorism and against the proliferation of biological and nuclear weapons, amongst them are the following:

Nuclear Non-Proliferation Treaty

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention)

Comprehensive Nuclear-Test-Ban Treaty

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (Biological Weapons Convention)

The Geneva Protocol of 1925

Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco)

Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials

Antigua and Barbuda's commitment to the spirit and intention of Resolution 1540 (2004) is further reflected by its enactment and implementation of legislation at a national level. These include the following:

The Prevention of Terrorism Act, 2005

The Money Laundering (Prevention) Act, 1996

International Business Corporations Act, Chapter 222 Laws of Antigua and Barbuda, as amended.

Mutual Assistance in Criminal Matters Act, 1993

The Biological Weapons Act, Chapter 52 Laws of Antigua and Barbuda

The Hijacking Act, Chapter 200 Laws of Antigua and Barbuda

Taking Hostages Act, 1993

Nuclear Material (Offences) Act, 1993

The Prevention of Terrorism Act, 2005:

This act took effect on 12 September, 2005 and repealed the Prevention of Terrorism Act, 2001. Its provisions seek to more effectively deter and prevent the financing of terrorist activities, to criminalize the membership in, facilitation or support of terrorist groups, and to maximize mutual assistance with other nations in the fight against terrorism. The following provisions of the Act are particularly relevant:

With a view to preventing the financing of terrorist groups or terrorist acts:

- It criminalizes: the provision or collection of funds to commit terrorist acts (s.6); the collection of property and services for commission of terrorist acts (s.7); the use of property for commission of terrorist acts (s.8); the laundering of terrorist funds and property (s.9); and the soliciting and giving of support to terrorist groups or to the commission of terrorist acts (s.10).
- It provides for the seizure of property where it is suspected that the property has been, or is being, used to commit a terrorist offence or an offence under the Act (s.25)
- It imposes a duty on financial institutions to report the possession or control of any property owned or controlled by or on behalf of a terrorist group and to file reports every three months disclosing whether or not they are in possession or control of any property owned or controlled by or on behalf of a terrorist group (s.34).
- It provides for seizure and forfeiture of property owned or controlled by a terrorist group or that has been used in the commission of a terrorist act (ss.35 and 37).

With a view to preventing acts of terrorism:

- It criminalizes: the commission of terrorist acts or the threat to commit such acts (s. 5); membership in a terrorist group (s.18); participation and conspiracy in the commission of terrorist offences under the Act (ss.20 and 17); the promotion or facilitation of the commission of terrorist acts in foreign states (s.115); the provision of weapons to terrorist groups (s.12); the recruitment of persons to be members of terrorist groups or participate in terrorist acts (s.13); the provision of training and instruction to terrorist groups and persons committing terrorist acts (s.14).

With a view to denying safe haven to terrorist groups and restricting the movement of members of such groups:

- It criminalizes the harbouring of persons committing terrorist acts (s.11);
- It provides for the refusal of registration and the revocation of registration of charities linked to terrorist groups (s.38).
- It provides authority to prevent entry and to order the removal of a person from the country whom it is suspected has been, is or will be involved in the commission of a terrorist act (s.40).
- It provides for a Minister of the Government to refuse an application for refugee status having regard to the interests of national security and public safety, if he has reasonable grounds to suspect the person has committed a terrorist act or is likely to be involved in the commission of a terrorist act (s.41).

With a view to providing the greatest assistance in connection with criminal investigation of terrorist matter:

- It provides for the exchange with foreign states by local law enforcement authorities of information relating to terrorist groups and terrorist acts (s.29).
- It provides for counter terrorism conventions to be used as the basis for mutual assistance in criminal matters (s.31).
- It provides for counter terrorism conventions to be used as the basis for extradition (s.30).
- It provides for the facilitation of extradition in relation to offences under the Act by declaring offences under the Act not to be of a political character (s.32).

Money Laundering (Prevention) Act, 1996

Antigua and Barbuda's principal statutory authority for combating money laundering is the Money Laundering (Prevention) Act 1996. Its major provisions include:

- The criminalization of money laundering
- The creation of a Supervisory Authority (s.10)
- It empowers the Supervisory Authority, *inter alia*, to receive reports of suspicious transactions from financial institutions (s.11(i)), to inspect

transaction records of financial institutions (s.11(iii)), and to share information on suspicious transactions with other law enforcement agencies (s.11(iv))

- It provides for the freezing of the proceeds and instrumentalities of money laundering (s.19)
- It provides for the criminal forfeiture of laundered property and the instrumentalities of criminal acts (s.20)
- It provides for the civil forfeiture of the proceeds of unlawful activity (ss.20A, 20B)

In order to supervise currency being dealt with outside the normal financial system

- The Act provides for currency reporting when entering and leaving the country (s.18)
- It provides for the seizure and forfeiture of undeclared currency (ss.18A, 18B)
- It designates money transmission service as financial institutions and makes them subject to the full requirements of the anti-money laundering regime (First Schedule)

In order to assist foreign countries in combating money laundering

- The Act provides for cooperation with countries with whom there is a mutual legal assistance treaty in order to identify, trace, freeze, seize or forfeit the property, proceeds or instrumentalities of money laundering (s.23)

International Business Corporations Act, Chapter 222, Laws of Antigua and Barbuda, as amended:

The formation and regulation of international business enterprises are primarily governed by the International Business Corporations Act Cap 222, as amended (IBC Act). The Financial Services Regulatory Commission (FSRC) is a body corporate created and empowered by the IBC Act to administer and regulate such international business enterprises.

The FSRC has statutory authority to oversee the international financial services sector. Section 316(4) of the IBC Act authorizes the FSRC to take any action necessary to ensure the integrity of the sector. Pursuant to this section the FSRC has issued separate Customer Due Diligence Guidelines for International Banking and Trust Corporations, International Insurance Corporations and Interactive Gaming and Interactive Wagering companies. Among other things, these guidelines give very specific direction concerning:

- Customer acceptance policy;
- Customer identification procedures;
- The manner in which numbered accounts are to be handled;
- The manner in which transactions involving politically exposed persons (PEPs) are to be handled; and
- "Know your employee" and "know your customer" policies.

In addition, section 259 (1) of the IBC Act and Regulation 2 of Statutory Instrument No.: 20 of 2004 mandates an annual onsite examination for all financial institutions licenced with the FSRC. The examination ensures compliance with the IBC Act, the Money Laundering (Prevention) Act and the Prevention of Terrorism Act. Further, the IBC Act requires an FSRC examiner to report any suspicious activities and/or transactions that could be related to money laundering. Suspicious activity/transaction reports are made to the Supervisory Authority, the Office of National Drug and Money Laundering Control Policy (ONDCP), and simultaneously copied to the Administrator, FSRC.

Mutual Assistance in Criminal Matters Act, 1993:

Antigua and Barbuda's principal law for the provision of mutual legal assistance to foreign countries in matters of money laundering and terrorism financing is the Mutual Assistance in Criminal Matters Act. The Act provides, *inter alia*, for assistance in locating or identifying persons; obtaining articles or things by search and seizure if necessary; arranging the attendance of persons at trials in foreign countries; transferring prisoners; serving documents; tracing property; obtaining restraining order; and registering confiscation orders.

The Biological Weapons Act, Cap. 52, Laws of Antigua and Barbuda

- This Act makes it a crime for any person to develop, produce, stockpile, acquire or retain any biological agent or toxin that has no justification for prophylactic or peaceful purpose, or as a biological weapon.

The Hijacking Act, Cap. 200, Laws of Antigua and Barbuda

- This Act creates an offence of unlawful seizure of an aircraft and prohibits violence against passengers.

Taking of Hostages Act, 1993

- The Act gives effect to the International Convention Against the Taking of Hostages. It makes it an offence to take hostages in order to compel a State or international governmental organization or person to do or abstain from doing something.

Nuclear Material (Offences) Act, 1993

- This Act makes it an offence for a person by means of nuclear material to do an act outside of Antigua and Barbuda which if committed in Antigua and Barbuda would have made the person guilty of murder, manslaughter, assault, malicious damage, embezzlement, fraud or extortion (s.3)
- It makes it an offence to receive, hold or deal with nuclear material intending to enable another to do an act which is an offence mentioned above (s.4).

- It makes it an offence for a person to make a threat to commit the offences mentioned above, or threaten to obtain nuclear material by means of the offences mentioned above in order to compel a State of governmental organization to take certain action or abstain from certain action (s.4).

Antigua and Barbuda is an advocate of international cooperation for the promotion of peaceful purposes and for the prevention of the proliferation of nuclear, biological or chemical weapons. To this end Antigua and Barbuda remains committed to the implementation of resolution 1540 and other multilateral initiatives in the pursuit of international peace, security and disarmament.